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Letter dated 27 February 2008 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I would like to bring to your attention a recent judgement by a Belgian court against several members of the terrorist organization, the Revolutionary People's Liberation Party-Front (DHKP-C). Among the accused are Dursun Karataş, the leader of DHKP-C, and the notorious terrorist Fehriye Erdal, one of the perpetrators of the assassination carried out in Istanbul in 1996 against Özdemir Sabancı, a prominent Turkish businessman, and his two assistants. I wish to emphasize that DHKP-C is on the list of terrorist organizations of the European Union and has perpetrated numerous violent terrorist acts in Turkey and several in several other European countries, targeting not only the constitutional order of Turkey, but also the existence and activities of the international organizations such as the North Atlantic Treaty Organization.

On 7 February 2008 the Antwerp Court of Appeals, overruling the previous judgements of other Belgian courts, namely Brugges Penal Court and the Gand Court of Appeals, acquitted the DHKP-C members, including the above-mentioned two terrorists, for the charges of "being member of a terrorist organization or criminal gang" in the light of the evidence provided by the Federal Prosecutor of Belgium. The Antwerp Court of Appeals convicted three of the accused, including Fehriye Erdal, only for the crimes of forgery and illegal possession of firearms, but then deferred their sentences.

The verdict of the Antwerp Court of Appeal is being examined by the Turkish authorities in detail and the possibility of appeal is being explored. We also noted that the Federal Prosecutor of Belgium appealed the said decision.

However, we are still concerned with the following conclusions of the Court upon which the verdict was based:

> "... The Court does not need to examine if DHKP-C abroad — e.g., in Turkey, Germany, Holland or Italy — can or should be considered as an association of criminals, respectively a criminal organization or a terrorist association ..."

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"... The Court is in no way bound by a decision of a foreign penal court, nor by a foreign administrative decision, nor by a foreign decision by an executive power ..."

"... Nor can the incorporation by the European Union of DHKP-C in the list of terrorist groups be binding for the judgement by the Court ..."

"... At the most, the incorporation in the list of terrorist associations can have the value of an indication that, together with other elements, could be taken into consideration ..."

"... For what concerns the 'foreign' elements: one can only take them into account for as far as there is a demonstrable link with the defendants and their activities in Belgium ..."

Though we have full respect for the independence of the judiciary, we firmly believe that these conclusions, without any doubt, constitute a serious contradiction to the fundamental principles of the global fight against terrorism. Moreover, the judgement is not in line with the binding resolutions of the Security Council, such as resolutions 1373 (2001) and 1566 (2004), which stipulate punishment of the perpetrators of terrorist acts by penalties consistent with their grave nature. Furthermore, it should also be noted that decisions as such could be misinterpreted as impunity and would consequently embolden the terrorist organizations.

I would like to conclude by quoting from your statement to the General Assembly on 16 February 2007 on the follow-up to the adoption of the United Nations Global Counter-Terrorism Strategy: "The fight against terrorism is our common mission". As you would agree with me, the accomplishment of this important mission requires firm and consistent stance by each and every member of the international community, as well as full and consistent implementation of the binding obligations incumbent upon member States.

I would be grateful if the present letter could be circulated as a document of the General Assembly, under agenda item 108, and of the Security Council.

(*Signed*) Baki **İlkin**
Ambassador
Permanent Representative